

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1553

**Introduced by Assembly Member ~~Wesson~~ Members Wesson and
Bermudez**

February 21, 2003

An act to amend Sections 9855 and 9855.2 of the Business and Professions Code, relating to service contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, as amended, Wesson. Service contracts.

Existing law, ~~effective~~ until January 1, 2008, regulates service contracts, as defined, relating to the maintenance or repair of specified sets and appliances.

This bill would change the definition of service contract by expanding the items that a contract may cover to also include furniture, jewelry, and specified equipment ~~and~~, appliances, *and products*.

Existing law, effective until January 1, 2008, ~~precludes~~ *prohibits* a service contract seller from issuing a service contract without complying with specified requirements.

This bill would allow a service contract seller to satisfy *one of* these requirements, ~~among other ways~~, by filing with the Director of Consumer Affairs the most recent audited financial statement reflecting a net worth of not less than \$100,000,000.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 9855 of the Business and Professions Code is amended to read:

9855. The definitions used in this section shall govern the construction and terms as used in this chapter:

(a) “Service contract” means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of a set or appliance, as defined by this chapter, or of furniture, jewelry, lawn and garden equipment, power tools, fitness equipment, telephone equipment, small kitchen appliances and tools, ~~or other similar equipment and appliances~~ *home health care products*, and may include provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, power surges, food spoilage, or accidental damage from handling.

(b) “Service contract administrator” or “administrator” means a person, other than a service contract seller or an insurer admitted to do business in this state, who performs or arranges, or has an affiliate who performs or arranges, the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges, or has an affiliate who performs or arranges, any of the following activities on behalf of service contract sellers:

(1) Providing service contract sellers with service contract forms.

(2) Participating in the adjustment of claims arising from service contracts.

(3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2.

A service contract administrator shall not be an obligor on a service contract.

(c) “Service contract seller” or “seller” means a person who sells or offers to sell a service contract to a service contractholder, including a person who is the obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract.

(d) “Service contractholder” means a person who purchases or receives a service contract from a service contract seller.

1 (e) “Service contractor” means a service contract
2 administrator or a service contract seller.

3 (f) “Service contract reimbursement insurance policy” means
4 a policy of insurance issued by an insurer admitted to do business
5 in this state providing coverage for all obligations and liabilities
6 incurred by a service contract seller under the terms of the service
7 contracts sold in this state by the service contract seller to a service
8 contractholder. The service contract reimbursement insurance
9 policy shall either cover all service contracts sold or specifically
10 cover those contracts sold to residents of the State of California.

11 (g) “Obligor” is the entity financially and legally obligated
12 under the terms of a service contract.

13 (h) The terms “consumer goods,” “manufacturer,” “retail
14 seller,” “retailer,” and “sale” shall have the same meanings
15 ascribed to them in Section 1791 of the Civil Code.

16 SEC. 2. Section 9855.2 of the Business and Professions Code
17 is amended to read:

18 9855.2. (a) A service contract seller shall not issue, sell, or
19 offer for sale a service contract unless he or she complies with one
20 of the following requirements:

21 (1) Files with the director one of the following:

22 (A) The most recent annual report on Form 10-K required by
23 the Securities and Exchange Commission, reflecting a net worth
24 greater than the sum of the deferred revenues from service
25 contracts in force. If the service contractor is a foreign corporation
26 that files a comparable audited financial statement with its home
27 government or with the United States government, the director
28 may deem that statement an acceptable substitute for Form 10-K.

29 (B) The most recent audited financial statement reflecting a net
30 worth of not less than one hundred million dollars (\$100,000,000).

31 (2) Obtains a service contract reimbursement insurance policy.

32 (3) Sells service contracts that are administered by a service
33 contract administrator who has obtained a service contract
34 reimbursement insurance policy covering the seller’s service
35 contracts.

36 (4) Maintains and annually verifies to the director a funded
37 account held in escrow equal to a minimum of 25 percent of the
38 deferred revenues from the service contracts in force.

39 (b) A service contract administrator shall not administer
40 service contracts sold in this state unless a service contract

- 1 reimbursement insurance policy covering these service contracts
- 2 has been obtained.

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